

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VALLAVISTA CORPORATION, a California
corporation,

Plaintiff,

v.

AMAZON.COM, INC., a Delaware corporation,
TARGET CORPORATION, a Minnesota
corporation, EBAGS, INC., a Colorado
corporation, EMPORIUM LEATHER
COMPANY, INC., a New Jersey corporation,
doing business as ROYCE LEATHER, and
FASHION HANDBAGS, INC., a Nevada
corporation, doing business as BO BO BAGS,

Defendants.

Case No. C-07-05360-WHA

**~~[PROPOSED]~~ ORDER
REGARDING STIPULATION
AND COURT'S RULING ON
DEFENDANT TARGET
CORPORATION'S MOTION TO
COMPEL AND PLAINTIFF
VALLAVISTA CORPORATION'S
MOTION TO COMPEL**

1. Defendant Target Corporation ("Target") filed a motion to compel production of certain documents or categories of documents and to make a witness available for further deposition testimony. The Court ordered the parties to meet and confer and to appear before the Court on Thursday, October 16, 2008. On Tuesday, October 14, 2008, Plaintiff Vallavista Corporation ("Plaintiff") responded to Target's motion to compel and filed its own motion to compel.

2. During the course of the meet and confer, Plaintiff stipulated to produce the accounting, financial, and expense records kept and maintained in the usual course of its business,

1 including the following categories of documents: (1) total income for all products; (2) computer
 2 expenses; (3) distribution center expenses; (4) sales by item summaries (including calculation of
 3 cost of goods); (5) payroll expenses; (6) outbound freight expenses; (7) inbound freight costs;
 4 (8) travel expenses; (9) postage and shipping expenses; (10) utilities expenses; (11) advertising
 5 expenses; (12) office equipment expenses; (13) office supply costs; (14) repairs and maintenance
 6 expenses; (15) convention expenses; (16) overall profit and loss statement; and (17) any other
 7 accounting statements related to the sales, expenses, and gross or net profits of the wallet product
 8 sold under the TAXI WALLET mark. Plaintiff agreed to produce these documents to Target
 9 immediately after the hearing.

10 3. Also during the course of the meet and confer, Plaintiff stipulated to make
 11 available a deponent under Rule 30(b)(6) of the Federal Rules of Civil Procedure for continued
 12 questioning regarding the calculation of its profit margin, financials, and the different profit per
 13 unit calculations that have been proffered thus far in this case.

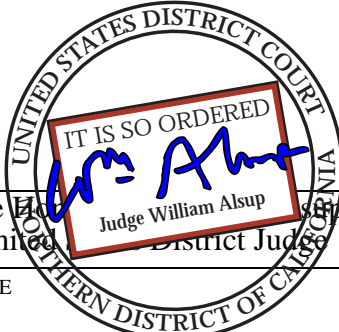
14 4. Plaintiff is hereby ORDERED to produce the documents specified in Paragraph 2
 15 above within ten days of the hearing date and to make the witness in Paragraph 3 available for
 16 further testimony at a time to be arranged with Target's counsel.

17 5. Having fully considered all papers submitted in support of and in opposition to
 18 Plaintiff's motion to compel, papers and records on file in this action, and the arguments of
 19 counsel, and with good cause appearing therefore, Plaintiff's motion to compel is GRANTED IN
 20 PART and DENIED IN PART.

21 6. The Court ORDERS Target to prepare and produce a list setting forth the Target
 22 stores and number of Isaac Mizrahi taxi wallets sold at each store within ten days of the hearing
 23 date. The Court DENIES the remainder of Plaintiff's motion to compel as untimely under the
 24 Federal Rules of Civil Procedure, the Local Rules, and the Court's Orders.

25 IT IS SO ORDERED.

26
 27 Dated: October 22, 2008

28
 The Honorable
 United States District Judge


1 The undersigned agree that the above [Proposed] Order accurately reflects the stipulation
2 reached by the parties and the October 16, 2008 ruling of the Court.

3
4 Dated: October 21, 2008

JENNIFER LEE TAYLOR
KIMBERLY L. TAYLOR
LINDSAY T. BRAUNIG
MORRISON & FOERSTER LLP

7 By: /s/ Kimberly L. Taylor
Kimberly L. Taylor

9 Attorneys for Defendant
TARGET CORPORATION

10
11 Dated: October 21, 2008

KEVIN R. MARTIN
RANDICK O'DEA & TOOLIATOS, LLP

13 By: /s/ Kevin R. Martin
Kevin R. Martin

15 Attorneys for Plaintiff
VALLAVISTA CORPORATION

17
18 **GENERAL ORDER 45 ATTESTATION**

19 I, Kimberly L. Taylor, am the ECF User whose ID and password are being used to file this
20 [Proposed] Order Regarding Stipulation and Court's Ruling on Defendant Target Corporation's
21 Motion to Compel and Plaintiff Vallavista Corporation's Motion to Compel. In compliance with
22 General Order 45, concurrence in the filing of this document has been obtained from Kevin R.
23 Martin and I shall maintain records to support this concurrence for subsequent production for the
24 Court if so ordered or for inspection upon request by a party.

25 Dated: October 21, 2008

26 By: /s/ Kimberly L. Taylor
Kimberly L. Taylor